

AMENDED IN SENATE MARCH 26, 2007

**SENATE BILL**

**No. 554**

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**Introduced by Senator Migden**

February 22, 2007

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An act to amend Sections 30121 and 30131.1 of, and to repeal and add Section 30003 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 554, as amended, Migden. Cigarette Tax Law: cigarettes.

The Cigarette and Tobacco Products Tax Law, under the Cigarette Tax Law, imposes a tax on every distributor of cigarettes and tobacco products at specified rates.

The Tobacco Tax and Health Protection Act of 1988 (Proposition 99), which was adopted by the voters at the general election held on November 8, 1988, imposes a surtax on the distribution of cigarettes, in addition to the taxes imposed pursuant to the Cigarette and Tobacco Products Tax Law, as of the effective date of the adoption of Proposition 99. The California Families and Children Act of 1998 (Proposition 10), which was adopted by the voters at the general election held on November 3, 1998, imposes a surtax on the distribution of cigarettes, in addition to the taxes imposed pursuant to the Cigarette and Tobacco Products Tax Law and the Tobacco Tax and Health Protection Act of 1988, as of the effective date of the adoption of Proposition 10.

A cigarette, for purposes of *all of the tax imposed under* the Cigarette Tax Law, is defined as any roll for smoking, made wholly or in part of tobacco, irrespective of size or shape and irrespective of whether the tobacco is flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other

material, except where such wrapper is wholly or in the greater part made of tobacco and such roll weighs over 3 pounds per 1,000.

This bill would change the definition of cigarette under the Cigarette Tax Law to mean any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and meets one of several specified conditions, as provided.

The Tobacco Tax and Health Protection Act of 1988, and the California Families and Children Act of 1998, each require that amendments to their provisions be consistent with the act's purposes, and be approved, respectively, by either a  $\frac{4}{5}$  or  $\frac{2}{3}$  vote of both houses of the Legislature.

This bill would declare that it amends those measures in a manner that furthers and is consistent with the purposes of those measures, and that it would require a  $\frac{4}{5}$  vote for passage.

This bill would take effect immediately as a tax levy.

Vote:  $\frac{4}{5}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 30003 of the Revenue and Taxation Code  
2 is repealed.  
3 SEC. 2. Section 30003 is added to the Revenue and Taxation  
4 Code, to read:  
5 30003. "Cigarette" means any product that contains nicotine,  
6 is intended to be burned or heated under ordinary conditions of  
7 use, and consists of or contains (a) any roll of tobacco wrapped in  
8 paper or in any substance not containing tobacco; (b) tobacco, in  
9 any form, that is functional in the product, which because of its  
10 appearance, the type of tobacco used in the filler, or its packaging  
11 and labeling, is likely to be offered to, or purchased by, consumers  
12 as a cigarette; or (c) any roll of tobacco wrapped in any substance  
13 containing tobacco which, because of its appearance, the type of  
14 tobacco used in the filler, or its packaging and labeling, is likely  
15 to be offered to, or purchased by, consumers as a cigarette  
16 described in this section. ~~"Cigarette" also includes "roll-your-own"~~  
17 ~~tobacco, meaning any tobacco which, because of its appearance,~~  
18 ~~type, packaging, or labeling, is suitable for use and likely to be~~  
19 ~~offered to, or purchased by, consumers as tobacco for making~~  
20 ~~cigarettes. For purposes of this definition of "cigarette," 0.09~~

1 ounces of “roll-your-own” tobacco shall constitute one individual  
2 “cigarette.” *described in this section.*

3 SEC. 3. Section 30121 of the Revenue and Taxation Code is  
4 amended to read:

5 30121. For purposes of this article:

6 (a) “Cigarettes” has the same meaning as in Section 30003, as  
7 that section read on January 1, 2008.

8 (b) “Tobacco products” includes, but is not limited to, all forms  
9 of cigars, smoking tobacco, chewing tobacco, snuff, and any other  
10 articles or products made of, or containing at least 50 percent,  
11 tobacco, but does not include cigarettes.

12 (c) “Fund” means the Cigarette and Tobacco Products Surtax  
13 Fund created by Section 30122.

14 SEC. 4. Section 30131.1 of the Revenue and Taxation Code  
15 is amended to read:

16 30131.1. The following definitions apply for purposes of this  
17 article:

18 (a) “Cigarette” has the same meaning as in Section 30003, as  
19 that section read on January 1, 2008.

20 (b) “Tobacco products” includes, but is not limited to, all forms  
21 of cigars, smoking tobacco, chewing tobacco, snuff, and any other  
22 articles or products made of, or containing at least 50 percent,  
23 tobacco, but does not include cigarettes.

24 SEC. 5. The Legislature finds and declares that this act furthers  
25 and is consistent with the purposes expressed in Article 2  
26 (commencing with Section 30121) of Chapter 2 of Part 13 of  
27 Division 2 of the Revenue and Taxation Code, as contained within  
28 the Tobacco Tax and Health Protection Act of 1988 (Proposition  
29 99 of the November 8, 1988, general election), and Article 3  
30 (commencing with Section 30131) of Chapter 2 of Part 13 of  
31 Division 2 of the Revenue and Taxation Code, as contained in the  
32 California Families and Children Act of 1998 (Proposition 10 of  
33 the November 3, 1998, general election).

34 SEC. 6. This act provides for a tax levy within the meaning of  
35 Article IV of the Constitution and shall go into immediate effect.